

Amendment to the Claims:

1. (original) An illuminated badge comprising: a plastic transparent section having an LED illuminating the transparent section; a compartment section housing a controller circuit controlling LED illumination, a battery tray holding batteries and inserting into the compartment section from the side of the compartment section; a first magnet attached to the compartment section; and a second magnet adhering to the first magnet allowing a user to attach the badge to clothing by inserting clothing between the first and second magnets.
2. The illuminated badge of Claim 1, wherein the controller circuit has three modes: an on mode, a continuous mode and an intermittent illumination mode.
3. The illuminated badge of Claim 1, wherein the controller circuit has four modes: an on mode, a continuous mode, a fast blinking intermittent illumination mode and a slow blinking intermittent illumination mode.
4. The illuminated badge of Claim 1, wherein the battery tray has a plurality of circular recesses each receiving a single button battery.
5. (currently amended) An illuminated badge comprising: a plastic transparent section having an LED illuminating the transparent section; a compartment section housing a controller circuit controlling LED illumination, a battery tray holding batteries and inserting into the compartment section from the side of the compartment section; a first magnet attached to the compartment section; and a second magnet adhering to the first magnet allowing a user to attach the badge to clothing by inserting clothing between the first and second magnets ~~The illuminated badge of Claim 1,~~ wherein a bottom groove is formed at the level of the bottom of the circular recess exposing each battery bottom to an electrical contact when the tray is stowed in closed position, wherein insertion of the battery tray into the compartment section activates electrical connection and energizes the circuit.
6. (currently amended) The illuminated badge of Claim [[1]] 5, wherein the battery tray has no electrical contacts.
7. (currently amended) The illuminated badge of Claim [[1]] 5, wherein the transparent portion displays screen-printing art.

8. (currently amended) The illuminated badge of Claim [[1]] 5, wherein the transparent portion displays three-dimensional laser etched art.
9. (currently amended) The illuminated badge of Claim [[1]] 5, wherein three button batteries are 1.5 V so that in series forming an electrical equivalent of a 4.5 V battery.
10. (currently amended) The illuminated badge of Claim [[1]] 5, further comprising a battery tray handle.
11. (new) An illuminated badge comprising: a plastic transparent section with a tapered edge; a compartment section housing a controller circuit controlling LED illumination, and housing the single LED that illuminates the transparent section, and housing a battery tray holding batteries and inserting into the compartment section from the side of the compartment section; a first magnet attached to the compartment section; and a second magnet adhering to the first magnet allowing a user to attach the badge to clothing by inserting clothing between the first and second magnets.
12. (new) The illuminated badge of Claim 11, wherein the controller circuit has three modes: an on mode, a continuous mode and an intermittent illumination mode.
13. (new) The illuminated badge of Claim 11, wherein the controller circuit has four modes: an on mode, a continuous mode, a fast blinking intermittent illumination mode and a slow blinking intermittent illumination mode.
14. (new) The illuminated badge of Claim 11, wherein the battery tray has a plurality of circular recesses each receiving a single button battery.
15. (new) The illuminated badge of Claim 11, wherein a bottom groove is formed at the level of the bottom of the circular recess exposing each battery bottom to an electrical contact when the tray is stowed in closed position, wherein insertion of the battery tray into the compartment section activates electrical connection and energizes the circuit.
16. (new) The illuminated badge of Claim 11, wherein the battery tray has no electrical contacts.
17. (new) The illuminated badge of Claim 11, wherein the transparent portion displays screen-printing art.
18. (new) The illuminated badge of Claim 11, further comprising a battery tray handle.

Buettell 6,684,544 is a magnetic card holder and Clinkscates 5,010,665 is a lighted badge. It may appear to be an elementary task to combine the magnetic card holder to the lighted badge, this is actually not so obvious.

The prior art does not show an illuminated badge structure with a magnetic holding means. MPEP 706.02(j) (D) suggests that an obviousness rejection require "(D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification." The badge structure of Clinkscates does not necessarily damage the user's clothing, and adding the magnetic holding method had been known in the era that the Clinkscates reference was written. Therefore, the applicant suggests that a long felt need, and failure of others to create or describe the device would make the invention not obvious.

MPEP 706.02(j) To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

There is no express teaching or suggestion to make the combination.